

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	
)	
DENNIS L. CHEZ, M.D.)	No. D-4818
Certificate No. G-24790)	N-41450.
)	
Respondent.)	
_____)	

DECISION

The attached Proposed Decision is hereby adopted by the Division of Medical Quality of the Medical Board of California as its Decision in the above-entitled matter.

This Decision shall become effective on June 3, 1994.

IT IS OR ORDERED May 4, 1994.

By: Karen McElliot
KAREN MCELLIOTT
President
Division of Medical Quality

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	No. D-4818
Against)	
)	OAH No. N-41450
DENNIS L. CHEZ, M.D.)	
)	
Physician's and Surgeon's)	
Certificate No. G-024790)	
)	
Respondent.)	

ORDER REMANDING CASE TO A.L.J.

The Division of Medical Quality is remanding this case to the Administrative Law Judge and parties to provide stipulated findings of fact to assist the Division in determining whether the penalty fits the offense. The Division would also appreciate more information about the respondent, his type of practice, his specialty, if any, and whether there are mitigating circumstances involved.

Therefore, the case is ordered remanded to the Administrative Law Judge for these clarifications.

DATED: December 17, 1993

DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA

By *Theresa J. Claassen*
THERESA CLAASSEN
Secretary

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

Dennis L. Chez, M.D.
P.O. Box 11137
Truckee, Ca. 95737

Physician's and Surgeon's
Certificate No. G-024790

Respondent.

No. D-4818

OAH No. N-41450

PROPOSED DECISION

On August 16, 1993, in Sacramento, California, Leonard L. Scott, Administrative Law Judge, Office of Administrative Hearings, State of California, heard the Settlement Conference for this matter.

Robert C. Miller, Deputy Attorney General, represented the complainant.

Jean C. Francissen, Attorney at Law, represented respondent Dennis L. Chez, M.D.

A settlement was reached and put on the record both orally and in the form of a typed document entitled Stipulation in Settlement. The Stipulation was signed by the attorney's for both parties to the matter. It was marked and admitted as Exhibit number 1. The record remained open until August 30, 1993, for the receipt of the copy of the Stipulation In Settlement signed by the attorneys for both parties and by respondent. It was received on August 30, 1993. Then, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

Dixon Arnett, Executive Director of the Medical Board of California (Board), filed the Accusation against respondent. Arnett acted in his official capacity.

II

On July 2, 1973, the Board issued physician's and surgeon's certificate Number G-024790 to respondent. The certificate was in full force and effect at all times relevant to this matter.

III

The Stipulation in Settlement is attached to and made a part of this Proposed Decision by reference. It will become effective, pursuant to its terms, if adopted by the Board.

ORDER

The Stipulation in Settlement is adopted as the Order in this matter including its terms and conditions.

Dated: September 16, 1993



LEONARD L. SCOTT
Administrative Law Judge
Office of Administrative Hearings

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 JANA L. TUTON
Supervising Deputy Attorney General
3 ROBERT C. MILLER
Deputy Attorney General
4 1515 K Street, Suite 511
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5 Sacramento, CA 94244-2550
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6 Attorneys for Complainant

8 BEFORE THE DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

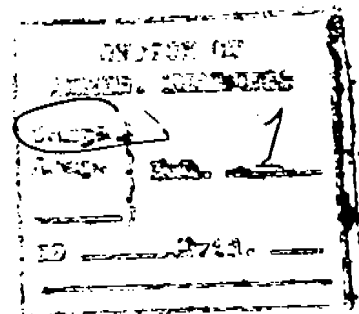
11	In the Matter of the)	No. D-4818
12	Accusation Against:)	
13	DENNIS L. CHEZ, M.D.)	STIPULATION IN SETTLEMENT
14	P. O. BOX 11137)	
15	Truckee, CA 95737)	
16	Physician's and Surgeon's)	
17	Certificate No. G-024790)	
18	Respondent.)	

18 Respondent Dennis L. Chez, M.D., through his counsel
19 James Jay Seltzer, and the Medical Board of California, Division
20 of Medical Quality, through its counsel Deputy Attorney General
21 Robert C. Miller, do hereby enter into the following stipulation:

22 1. Dixon Arnett, Executive Director of the Medical
23 Board of California (hereinafter "Board") filed amended
24 accusation number D-4818 solely in his official capacity.

25 2. On July 2, 1973, the Board issued physician and
26 surgeon certificate number G-024790 to Dennis L. Chez

27 / / /



1 (hereinafter "respondent"). The certificate was in full force
2 and effect at all times pertinent herein.

3 3. Respondent has read and understands the charges
4 contained in the accusation. Respondent has been advised by his
5 counsel, Mr. Seltzer, of the charges and possible defenses.
6 Respondent understands that those charges, if found to be true,
7 constitute cause for disciplinary action.

8 4. Respondent understands that he has a right to a
9 hearing on the charges contained in the accusation, to
10 reconsideration, to appeal, and to any and all rights accorded
11 him by the Administrative Procedure Act and Code of Civil
12 Procedure. Respondent hereby freely and voluntarily waives those
13 rights in order to enter into this stipulation as a resolution of
14 the pending accusation against him.

15 5. It is expressly understood by the parties that the
16 admissions made herein are for the purposes of this proceeding or
17 other proceeding before the Board and may not be used for any
18 other purpose.

19 6. Subject to the proviso in item 5 above, respondent
20 admits as true the allegations contained in paragraphs 11 and
21 13(c) of amended accusation number D-4818.

22 7. Based on the waivers and admissions made herein,
23 the Division of Medical Quality of the Board may issue the
24 following decision:

25 Physician and surgeon certificate number G-024790,
26 heretofore issued to Dennis L. Chez, M.D., is hereby revoked;
27 provided, however, that said revocation is stayed, and respondent

1 is placed on probation for a period of five (5) years upon the
2 following terms and conditions:

3 (A) As part of probation, respondent will not serve
4 any actual suspension from the practice of medicine.

5 (B) Within ^{ninety 90} ~~sixty (60)~~ days of the effective date of
6 this decision, respondent shall take and pass ^{by a score of 70% or better} ~~an oral~~ ^{a written}
7 examination, on the subject of appropriate prescribing and
8 maintaining of controlled substances, to be administered by the
9 Division or its designees. If respondent fails this examination,
10 respondent must take and pass a re-examination consisting of a
11 written as well as an oral examination. The waiting period
12 between repeat examinations shall be at ^{one} ~~three months~~ intervals
13 until success is achieved. Respondent shall pay the cost of the
14 initial ^{written} ~~oral~~ examination and any subsequent re-examinations.

15 If respondent fails the first examination, respondent
16 shall cease the practice of medicine until the re-examination has
17 been successfully passed, as evidenced by written notice to
18 respondent from the Division. Failure to pass the required
19 examination no later than 100 days prior to the termination date
20 of probation shall constitute a violation of probation.

21 (C) Within thirty (30) days of the effective date of
22 this decision, respondent shall be evaluated by the Division's
23 Diversion Program and shall subsequently enroll and participate
24 in the Diversion Program if ordered by the Division until the
25 Division determines that further treatment and rehabilitation is
26 no longer necessary. If the Division Evaluation Committee
27 recommends that respondent enroll in the Diversion Program,

1 respondent shall have the right to request a second evaluation by
2 an outside psychiatrist approved by the Division. Quitting the
3 program without permission or being expelled for cause shall
4 constitute a violation of probation by respondent. All costs of
5 evaluation and any subsequent treatment shall be paid by
6 respondent.

7 (D) Respondent shall not prescribe, administer,
8 dispense, order, or possess the Schedule III controlled
9 substance, hydrocodone, or any of its brand names, including
10 Vicodin.

11 (E) Respondent shall maintain a record of all
12 controlled substances prescribed, dispensed or administered by
13 him during probation, showing all the following: (1) The name
14 and address of the patient; (2) The date; (3) The character and
15 quantity of controlled substances involved; and (4) The
16 indications and diagnosis for which the controlled substance was
17 furnished.

18 Respondent shall keep these records in a separate file
19 or ledger, in chronological order, and shall make them available
20 for inspection and copying by the Division or its designee, upon
21 request.

22 (F) Within ninety (90) days of the effective date of
23 this decision, and on an annual basis thereafter, respondent
24 shall submit to the Division for its prior approval an
25 educational program or course in the areas of proper drug
26 prescribing practices, which shall not be less than thirty (30)
27 hours per year, for each year of probation. This program shall

1 be in addition to the Continuing Medical Education requirements
2 for re-licensure. ~~Following the completion of each course, the~~
3 ~~Division or its designee may administer an examination to test~~
4 ~~respondent's knowledge of the course.~~ Respondent shall provide
5 proof of attendance for fifty-five (55) hours of continuing
6 medical education of which thirty (30) hours were in satisfaction
7 of this condition and were approved in advance by the Division.

8 (G) Within the first year of probation respondent
9 shall complete a board approved course in ethics.

10 (H) Within sixty (60) days of the effective date of
11 this decision, respondent shall submit to the Division for its
12 prior approval a community service program in which respondent
13 shall provide free medical services to his community, or to a
14 charitable facility or agency, for at least twenty (20) hours a
15 month for the first twelve (12) months of probation. *or, in the*

16 *alternative, respondent shall within sixty days of effective date of this decision pay to*
17 (I) Respondent shall obey all federal, state and local
18 laws and all rules governing the practice of medicine in
19 California.

20 (J) Respondent shall submit quarterly declarations
21 under penalty of perjury on forms provided by the Division,
22 stating whether there has been compliance with all of the
23 conditions of probation.

24 (K) Respondent shall comply with the Division's
25 probation surveillance program.

26 (L) Respondent shall appear in person for interviews
27 with the Division's medical consultant upon request at various
intervals and with reasonable notice.

1 (M) In the event that respondent should leave
2 California to reside or practice outside the state, respondent
3 must notify the Division in writing of the dates of departure and
4 return. Periods of residency or practice outside California will
5 not apply to the reduction of the probationary period.

6 (N) Upon successful completion of probation,
7 respondent's certificate will be fully restored.

8 (O) If respondent violates probation in any respect,
9 the Division, after giving notice and opportunity to be heard may
10 revoke probation and carry out the disciplinary order that was
11 stayed. If an accusation or petition to revoke probation is
12 filed against respondent during probation, the Division shall
13 have continuing jurisdiction until the matter is final, and the
14 period of probation shall be extended until the matter is final.

15 8. Respondent may not withdraw this stipulation prior
16 to the Board's formal action on the stipulation. In the event

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1 this stipulation is not adopted by the Board, it shall have no
2 force or effect on any party.

3 DATED: 8/16/93

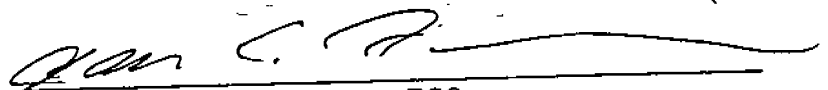
4 DANIEL E. LUNGREN, Attorney General
5 of the State of California
6 JANA L. TUTON
7 Supervising Deputy Attorney General

8 

9 ROBERT C. MILLER
10 Deputy Attorney General

11 Attorneys for Complainant

12 DATED: 8/16/93

13 

14 ~~JAMES JAY BELTZER, ESQ.~~
15 Jean Francissen
16 Attorney for Respondent

17 DATED: 8/20/93

18 

19 DENNIS L. CHESS, M.D.

20 Respondent
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26
27

93 FEB -8 AM 11:15

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Attorneys for Complainant

BEFORE THE DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the)	No. D-4818
Accusation Against:)	
)	AMENDED ACCUSATION
DENNIS L. CHEZ, M.D.)	
P. O. BOX 11137)	
Truckee, CA 95737)	
)	
Physician's and Surgeon's)	
Certificate No. G-024790)	
)	
Respondent.)	

Dixon Arnett, the complainant herein, alleges as follows:

1. He is the Executive Director of the Medical of California, and makes and files this accusation in his official capacity as such and not otherwise.

2. On or about July 2, 1973, respondent Dennis L. Chez, M.D. (hereinafter "respondent") was issued physician's and surgeon's certificate No. G-024790 under the laws of the State of California. This certificate is currently in full force and effect and will expire on April 30, 1992 if not renewed.

1 3. Section 2234 of the Business and Professions Code
2 (hereafter the "Code") provides that the Division of Medical
3 Quality of the Medical Board of California shall take action
4 against a holder of a physician's and surgeon's certificate who
5 is guilty of unprofessional conduct. Section 2234, subdivision
6 (b) provides that gross negligence is unprofessional conduct.
7 Section 2234, subdivision (c) provides that repeated negligent
8 acts constitute unprofessional conduct.

9 4. Section 725 of the Code provides that repeated
10 acts of clearly excessive prescribing or administering of drugs
11 as determined by the standard of the community of licensees is
12 unprofessional conduct.

13 5. Section 2241 of the Code provides that prescribing
14 controlled substances to habitual users or addicts is
15 unprofessional conduct.

16 6. Section 2242, subdivision (a) of the Code provides
17 that prescribing controlled substances without a good faith prior
18 examination is unprofessional conduct.

19 7. Section 2239, subdivision (a) of the Code provides
20 that the self-prescribing or use a controlled substance is
21 unprofessional conduct.

22 8. Section 2238 of the Code provides that a violation
23 of any federal statute or regulation or any California statute or
24 regulation regulating dangerous drugs or controlled substances
25 constitutes unprofessional conduct.

26 9. Section 4232 of the Code provides that all
27 physicians shall maintain a current inventory of the purchase and

1 disposition of controlled substances and shall have that
2 inventory open for inspection by authorized officers of the law
3 at all times during business hours.

4 10. Respondent is subject to disciplinary action
5 pursuant to section 2234(a) as follows:

6 (A) Respondent violated section 2239, subdivision (a)
7 of the Code in that on April 18, 1991, respondent provided a
8 urine sample to Medical Board investigators. An analysis of that
9 sample revealed the presence of cocaine and hydrocodone.

10 (B) Respondent further violated section 2239,
11 subdivision (a) of the Code in that between January, 1989 and
12 September, 1989, respondent self-prescribed large amounts of
13 hydrocodone.

14 11. Respondent is subject to disciplinary action
15 pursuant to section 4232 of the Code in that he failed to keep a
16 current inventory of his purchase and disposition of controlled
17 substances between 1989 and 1991, and failed to produce that
18 inventory for inspection by law enforcement officers.

19 J.W.^{1/}

20 12. Respondent is subject to disciplinary action
21 pursuant to section 2234 of the Code alleged as follows:

22 (A) J.W. was respondent's patient between February,
23 1989 and January, 1991.

24 (B) In December, 1989, respondent violated section
25 2242, subdivision (a) of the Code by prescribing hydrocodone
26 without first giving J.W. a good faith physical examination..

27
1. Patient's names will be provided on request.

1 (C) Respondent violated section 2241 of the Code by
2 continuing to prescribe hydrocodone to J.W. in late 1989 to 1991
3 after respondent knew, or should have known, that J.W. had become
4 addicted to the drug.

5 (D) Respondent violated section 2234 of the Code by
6 failing to employ other, non-narcotic, treatment modalities to
7 treat J.W.'s back pain.

8 (E) Respondent violated section 2234 of the Code by
9 failing to taper J.W.'s use of hydrocodone and acetaminophen down
10 to therapeutic dosages, and/or by failing to refer J.W. to a
11 chronic pain management program.

12 (F) Respondent violated section 725 of the Code by
13 prescribing excessive amounts of acetaminophen to J.W. from 1989
14 to 1991.

15 (G) Respondent violated section 2234 of the Code by
16 failing to keep adequate records of this treatment of J.W. from
17 1989 to 1991.

18 R.M.

19 13. Respondent is subject to disciplinary action
20 pursuant to section 2234 of the Code alleged as follows:

21 (A) R.M. was respondent's patient between December,
22 1989 and December, 1990.

23 (B) Respondent violated section 2242, subdivision (a)
24 of the Code by prescribing hydrocodone to R.M. in September,
25 1989, three months prior to respondent's first examination of
26 R.M.

27 ///

1 (C) Respondent violated section 725 of the Code in
2 that he continued to increase the dosages of hydrocodone
3 prescribed for R.M. to levels high enough to induce physical
4 habituation.

5 (D) Respondent violated section 2241 of the Code by
6 continuing to prescribe hydrocodone to R.M. in June, 1990, even
7 though R.M.'s continued use and increased tolerance to the drug
8 indicated addiction.

9 (E) Respondent violated section 2234, subdivision (b)
10 of the Code, gross negligence, by failing to implement a
11 comprehensive treatment plan for R.M.'s chronic headaches, rather
12 than prescribing hydrocodone as the sole treatment modality.

13 (F) Respondent violated section 2234, subdivision (c)
14 of the Code by failing to keep adequate records of his treatment
15 of R.M. from 1989 to 1990.

16 M.O.

17 14. Respondent is subject to disciplinary action
18 pursuant to section 2234 of the Code alleged as follows:

19 (A) M.O. was respondent's patient from March, 1989 to
20 December, 1989. Respondent treated M.O. for a sports-related
21 neck injury.

22 (B) Respondent violated section 725 of the Code by
23 prescribing Vicodin for M.O.'s injury in an amount great enough
24 to cause physical habituation.

25 (C) Respondent violated section 2234 of the Code by
26 prescribing medication to M.O. from June 1989 to December 1989
27 without performing any physical examination.

1 15. Respondent is subject to disciplinary action
2 pursuant to section 2234, subdivision (c) of the code alleged as
3 follows:

4 (A) Paragraph 10(A) is incorporated here as fully set
5 forth above.

6 (B) Respondent violated section 2234, subdivision (c),
7 repeated negligent acts, by failing to maintain records between
8 January, 1989 and September, 1989, regarding the disposition or
9 administration of the self-prescribed hydrocodone.

10 16. Respondent is further subject to disciplinary
11 action pursuant to section 2234, subdivision (c) of the Code
12 alleged as follows:

13 (A) Paragraphs 12 through 14(C), inclusive, are
14 incorporated here as fully set forth above.

15 (B) Respondent violated section 2234, subdivision (c)
16 of the Code by failing to keep adequate medical records of his
17 treatment of patients J.W., R.M., and M.O.

18 WHEREFORE complainant prays that the Division of
19 Medical Quality hold a hearing on the matters alleged herein and
20 following said hearing issue a decision:

21 1. Suspending or revoking the physician and surgeon's
22 certificate issued to respondent Dennis L. Chez, M.D.; and

23 2. Prohibiting respondent from supervising a
24 physician's assistant; and

25 ///

26 ///

27 ///

proper.

DATED:

Ronald Arnett, MD for

Dixon Arnett
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

2-3-93